

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, FEBRUARY 23, 2016
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Jenny Mongeau, Dan Langseth, Bill Davis, Andrea Koczur, David Heng, Randy Schellack, Amos Baer

Members Absent: Mike Hulett, Tim Brendemuhl

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, David Sogn, Jeff Rehder, Josh West

INTRODUCTION

Randy Schellack from the Soil and Water Conservation District Board was introduced as a new member to the Planning Commission.

ELECTION OF OFFICERS

Election of officers was held by ballot voting. For 2016, the chairman will be: Amos Baer; the vice-chair will be Andrea Koczur; the secretary will be Tom Jensen

On motion by Jenny Mongeau, seconded by Andrea Koczur, and unanimously carried, the Planning Commission recessed the meeting, allowing the Board of Adjustment to conduct their short meeting first.

On motion by Tom Jensen, seconded by Andrea Koczur, and unanimously carried, the Planning Commission reconvened.

APPROVAL OF AGENDA

On motion by Tom Jensen, seconded by Andrea Koczur, and unanimously carried, the Commission approved the agenda with one addition of a business item requested by Tim Magnusson to change the March meeting to March 22.

APPROVAL OF MINUTES

On motion by Jenny Mongeau, seconded by Bill Davis, and unanimously carried, the Commission approved the January 26, 2016 minutes as presented.

CITIZENS TO BE HEARD

There were no citizens to be heard on matters not on the agenda.

SUMMIT SAND AND GRAVEL (RODENWALD) – INTERIM USE REQUEST FOR AGGREGATE MINING

The applicant is seeking approval of an Interim Use Permit to allow for the development of a new 20-acre aggregate mining operation. The affected property is located in the North Half SE Quarter and SE Quarter SE Quarter, less 10 acres, Section 16, T141N, R45W (Keene Twp.) in the Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg) zoning districts.

On motion by Tom Jensen, seconded by Dave Heng, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, displayed the site on an aerial view. This mining site is east of the Haverkamp mining site which is the larger of the two. At this site, they would mine 12-15 acres. Magnusson referred to the Department of Natural Resource (DNR) letter regarding two of the proposed mining sites being heard tonight. It was pointed out that the locations are very close to the Felton Creek trout stream. The concern is that as mining occurs, groundwater could possibly be diverted from the trout stream to the mining pits. DNR would like to see mining limited to only occur above the elevation of groundwater. Magnusson noted that 300 feet from each side of the creek is zoned as shoreland.

A portion of this site appears to have been mined in the past. The applicant intends to minimally expand the mined area, mine it, and then reclaim it back to agricultural use. It is estimated that material on the site may last for five to six years. Mining would be conducted using a dozer or scraper and front-end loader. No crushing or washing is anticipated. The haul route will be east 200th St N (CR 27) which is gravel; then south three miles to CR 26 (paved); west to State Hwy 9; and south to US Hwy 10. Most of the materials will be used in the F-M area. There are six residences along the gravel haul road and two more houses to the north of the pit. Dust issues should be considered and conditions placed on the permit to minimize any adverse impacts on them. During hauling operations there should be signage on the county road to warn drivers of increased truck traffic/trucks hauling. The Hilde pit is to the east of this site. The gravel company at the Hilde pit controlled dust in front of the six residences last year with two different applications of magnesium chloride.

The applicant has applied and received a variance to mine up to the west property line which borders another mining site. The setback for property lines without a variance is 100 feet. Operations at this site are requested to run from March through December, Monday thru Saturday, for 12 to 14 hour per day, 6:00 a.m. to 9:00 p.m. They are also requesting that the facility be allowed to operate 24 hours a day when necessary.

Tom Jensen asked about signage for truck traffic from this site. Magnusson noted that there is an entrance there already, but it'll need some improvement. He suggested having signage on Co. Rd. 26 while they are hauling. They should talk to the Highway Engineer about either permanent, fold-down signs or use temporary signs. Mark Klevgaard asked about dealing with DNR regarding the water issues. DNR defines perched water and ground water on sites.

The applicant, Dave Sogn with Summit Sand and Gravel, pointed to the mined out area and noted that they intend to work the site starting on the north end. They don't intend to mine into

the water; however, they may need DNR to define perched water and ground water. After it rains it depends how long the water takes to soak in depending on whether it is on clay or aggregate. He pointed out the mined area where there will be no stripping. There is a grass buffer zone that they do not intend to disturb. Magnusson added that silt fencing should be adequate to control the runoff back into the pit area. If they maintain that northern edge in its current state, they shouldn't have an issue, but they will need to obtain a stormwater management plan for the site.

Magnusson commented that, although it was mentioned in the letter from DNR, he does not believe an Environmental Assessment Worksheet (EAW) is needed for these sites. In this instance, it would be his decision as the Planning Director on requesting the assessment. It does not meet the criteria for a mandatory assessment (40 acres to a mean depth of 10 feet or deeper). The creek is being protected and the mining is out of the shoreland area. This mining company is planning to work small areas and then reclaim them, and the sites are under different property owners as well. Baer asked the applicant about total acres they tend to mine. Sogn noted that they will be working in a 20-acre area and will maintain the north line that is indicated in the application because of Felton Creek, and expect to mine approximately 12 acres, more or less. Rodewald had reported that he did not know who mined there previously. It may have been Santoyo, but Magnusson does not recall issuing a permit for it.

There was no one else present to speak for or against the proposal. Magnusson noted that the Planning office notifies property owners within a half mile of the site, but the houses along the haul road are actually outside the notification area.

On motion by Dan Langseth, seconded by Mark Klevgaard, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. A portion of Item #4 (Adequate measures have been or will be taken to provide draining) was found to be applicable. All items can be addressed with conditions and none were found to warrant further discussion.

On motion by Tom Jensen, seconded by Mark Klevgaard, and unanimously carried, the Planning Commission approved a request from Summit Sand & Gravel for an Interim Use Permit to allow for the development of a new 20-acre aggregate mining operation. The affected property is located in the N ½ SE ¼ & SE ¼ SE ¼, Section 16, Keene Township, with the following conditions:

- 1. Permit shall terminate on December 31, 2022.**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust by applying chloride in front of residences located along the haul route and coordinate maintenance on any/all gravel haul roads with the Clay County Highway Department.**
- 4. Operator shall improve access onto 200th St N to meet Clay County Hwy Department standards and place appropriate "Trucks Hauling/Entering" signage at entrance when hauling.**
- 5. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining**

operations. Sediment control methods must be implemented between mine site and Felton Creek.

6. Operations must comply with all provisions of Wetlands Conservation Act.
7. A total of 39 acres approved for mining operations (excavation, screening, stockpiling, etc.) If additional acres are proposed to be opened in the future a new or amended IUP would be required.
8. May operate March thru December, Monday thru Saturday, from 6 a.m. to 9 p.m.
9. Require applicant to post \$1000 per acre reclamation bond and reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowners specification upon reclamation.
10. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.
11. Require operator to present a mine plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.

On motion by Tom Jensen, seconded by Andrea Koczur, and unanimously carried, the hearing was reopened in order to amend the conditions of the permit to allow extended hours for crushing at the site.

On motion by Jenny Mongeau, seconded by Mark Klevgaard, and unanimously carried, condition the following sentence was added to Condition #8: Twenty-four crushing operations may be allowed with prior approval from the Planning Office.

8. *May operate March thru December, Monday thru Saturday, from 6 a.m. to 9 p.m. Twenty-four crushing operations may be allowed with prior approval from the Planning Office.*

On motion by Tom Jensen, seconded by Andrea Koczur, and unanimously carried, the Planning Commission closed the public hearing.

SUMMIT SAND AND GRAVEL (HAVERKAMP) – INTERIM USE REQUEST FOR AGGREGATE MINING

The applicant is seeking approval of an Interim Use Permit to allow for the development of a new 39-acre aggregate mining operation. The affected property is located in the East Half SW Quarter and SW Quarter SE Quarter, Section 16, T141N, R45W (Keene Twp.) in the Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg) zoning districts.

On motion by Dan Langseth, seconded by Andrea Koczur, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson displayed aerial views of the site which is next to the mining site that was just approved at the first hearing. The applicant is the same, but the property owners are different.

This site would have two separate pit areas on the same parcel. They do not anticipate going into the water table or dewatering on this site. It is estimated that mining at the site may last for five to six years, and would be conducted using a dozer or scraper to remove topsoil/overburden and a dozer/front-end loader would feed material into a screen plant, as necessary. No crushing or washing is anticipated.

The haul route for this mine will be east 200th St N / Co. Rd 27 (a gravel road), then south three miles to Co. Rd. 26 (paved), west to State Hwy 9, then south to US Hwy 10. Most of the materials will be used in the F-M area. There are six residences along the gravel haul road so dust issues should be considered and conditions drafted to minimize any adverse impact on them. During hauling operations there should be signage on the county road to warn drivers of increased truck traffic/trucks hauling. Operations at this site are requested to run from March through December, Monday thru Saturday, for 12 to 14 hour per day, 6:00 a.m. to 9:00 p.m.; and 24 hour a day when necessary.

The applicant applied for and received a variance to mine right up to the west property line that that adjoins the neighboring site. Also, Magnusson received a letter from Department of Natural Resource (DNR) regarding these two proposed mining sites because of the close proximity to Felton Creek trout stream. The concern is that as mining occurs, groundwater could possibly be diverted from the trout stream to the mining pits. DNR would like to see mining limited to only occur above the elevation of groundwater. Three hundred feet from each side of the creek is zoned as shoreland. Magnusson commented that, although there was mention of it in the DNR letter, he does not believe an Environmental Assessment Worksheet (EAW) is needed for these sites. In this situation, it would be his decision as the Planning Director to request an assessment. It does not meet the criteria for a mandatory assessment (40 acres to a mean depth of 10 feet or deeper). The creek is being protected and the mining is being done outside the shoreland area. This mining company is planning to work small areas and then reclaim them, and the sites are under different property owners as well.

The situation with perched water on the haul road after rain was also brought up again. Tom Jensen asked more about the number of trucks, the water on the road, and dust control measures on the gravel roads. The applicants mentioned that they have spoken to the homeowners in the area. In the past, they have placed up to 20 loads of gravel on their haul road and have used magnesium chloride in front of the residences for dust control. Magnusson noted that notifications are sent to property owners within a half mile of the properties. The area with six residences along the haul road are outside the notification area. Other than the letter from DNR, no other letters, phone calls, or emails were received on the proposal.

Representatives from Summit Sand and Gravel, Dave Sogn (Operations Manager), Josh West, and Jeff Rehder, were present. They noted that they will probably not mine as far south as the aerial showed because the material there is finer. They will be screening and crushing on site. They will not be washing. There will be the same number of trucks going down the road, between their gravel pit operations. The Hilde pit is just to the northeast of this site, and that landowner wanted that site reclaimed as they go so he can farm a portion of it. Sogn noted that they buy performance bonds through insurance companies which are held until there is grass on the ground again. They cost so much per year and are paid annually. There was further discussion on whether bonds should be just the open acres or the whole permitted areas. Sogn

commented that after a few years when part of the site is mined out, the bond should go down, and the insurance company should get less for the bond. Assistant County Attorney Jenny Samarzja noted that it would be difficult to monitor the number of acres that are open each year.

There was no one else present who wished to speak for or against the proposal.

On motion by Dave Heng, seconded by Dan Langseth, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order from the staff report were each addressed by the Planning Commissioners as they pertain to the requested permit. A portion of Item #4 (Adequate measures have been or will be taken to provide draining) was listed as applicable, but could be managed with silt fencing on the north side of the pit, between the pit and Felton Creek.

On motion by Dave Heng, seconded by Bill Davis, and unanimously carried, the Planning Commission approved the request from Summit Sand and Gravel for an Interim Use Permit to allow for the development of an aggregate mining operation located in the E¹/₂ SW¹/₄ and SW¹/₄ SE¹/₄ Section 16, Keene Township with the following conditions:

- 1. Permit shall terminate on December 31, 2025.**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust by applying chloride in front of residences located along the haul route and coordinate maintenance on any/all gravel haul roads with the Clay County Highway Department.**
- 4. Operator shall improve access onto 200th St N to meet Clay Co. Hwy Dept standards and place appropriate “Trucks Hauling/Entering” signage at entrance when hauling.**
- 5. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations. Sediment control methods must be implemented between mine site and Felton Creek**
- 6. Operations must comply with all provisions of Wetlands Conservation Act.**
- 7. Propose a maximum of 39 acres be approved for mining operations (excavation, screening, stockpiling, etc.) If additional acres are proposed to be opened in the future a new or amended IUP would be required.**
- 8. May operate March thru December, Monday thru Saturday, from 6 a.m. to 9 p.m. Twenty-four crushing operations may be allowed with prior approval from the Planning Office.**
- 9. Require applicant to post \$1,000 per acre reclamation bond and reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowners specification upon reclamation.**
- 10. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
- 11. Require operator to present a mine plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.**

SUMMIT SAND AND GRAVEL (SHAW) – INTERIM USE REQUEST FOR AGGREGATE MINING

The applicant is seeking approval of an Interim Use Permit to allow for the development of a new 39 acre aggregate mining operation. The affected property is located in the SE Quarter, Section 29, T142N, R45W (Hagen Twp.) in the Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg) zoning districts.

On motion by Bill Davis, seconded by Dan Langseth, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, noted that this is the site that prompted the DNR letter. The mining site which is outlined in yellow was displayed; and several other pits in the near vicinity including the Dunham pit and the B Bar B pit were pointed out. This is also the vicinity of the Felton Prairie and the Bicentennial Prairie, which is leased and protected by DNR as a scientific and natural area. Threatened and endangered species are protected against possible impacts. Magnusson showed where the two calcareous fens, which are wetland features fed by calcareous groundwater, are located. One of the fens is on County-owned property. The groundwater in this area flows from the SE to the NW. There are wetland grasses growing there that do not grow anywhere else in the county. Magnusson noted that there are no fens located NW of the proposed pit on the Shaw parcel. He pointed out an area which is a wetland that may be due to mining. To the west is a wetland that has not been excavated. The county's ordinance requires a 500-foot setback from mining to residences. The property owner (Carl Shaw) of the proposed mining area lives in a new house on the same site, but Magnusson did not believe it is applicable to the setbacks. One area close to the house that is marked as having gravel has a variety of junk that needs to be cleaned up.

The applicant, David Sogn from Summit Sand and Gravel, stated they have a lease for mining and permission to go out of the Shaw driveway with loaded trucks. There are three circled areas where they intend to mine. Magnusson stated that they will need to talk to the County Highway Engineer about changing a farm approach to a commercial approach for the one area and for access from the NE corner of the site for another area. It was reported that there are no houses along the haul road. It is one-half mile to the NE corner. An "X" is used to mark remnant wetlands that are due to mining. Sogn noted that the west strip could come back further to the east than what is marked. This area has concrete grade aggregate which is more valuable. If necessary draglines will be used onsite to remove material from the water. Screens and crushers will be used to process the material. No washing is anticipated.

Magnusson noted that the B Bar B pit runs a slackline and the Felton Prairie pit had also run a slackline. There is different gravel there than anywhere else in the county. For a mandatory EAW on the site, the pit would need to be at least 40 acres to a mean depth of 10 feet. Post-reclamation use of the mined sites is intended to be agricultural, but that may be difficult depending on how deep the sites are and whether mining takes place below the water table. It is estimated that material on the site may last for approximately 10 years.

The haul route will be east to 190th St N / CR 110 (gravel), then south to CR 34 (paved), west to State Hwy 9, and south on State Hwy 9. A second haul road may access directly onto CR 34 (paved) near the western edge of the property. Most of the materials will be used in the F-M

area. Dust issues should be minimal as there are no houses along the gravel haul road. During hauling operations there should be signage on the county roads to warn drivers of increased truck traffic/trucks hauling. Operations are requested to run from March through December, Monday thru Saturday, 12 to 14 hour per day, 6:00 a.m. to 9:00 p.m.

Sogn stated that on the west end they will probably mine down 15 to 20 feet. From a practical standpoint, 20 feet would probably be the deepest because of their equipment. It is a high quality material. The owner wants the area marked by his house to be cleaned up and improved, mined, and then left more level than what it is currently.

Chair Baer asked if there was anyone else present who wished to speak for or against the proposal.

On motion by Jenny Mongeau, seconded by Tom Jensen, and unanimously carried, the Planning Commission closed the public hearing.

David Heng agreed with the staff report that an EAW is not needed on a site this small, and Dan Langseth agreed. The applicant would only be allowed to mine up to 39 acres. “Crushing” needs to be added to condition #9. The applicant was asked to be more careful in scaling the mining maps that are presented. The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All of the items can be addressed with conditions and none were found to warrant further discussion.

On motion by Bill Davis, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission approved a request from Summit Sand and Gravel for an Interim Use Permit to allow for the development of a new 39-acre aggregate mining operation. The affected property is located in the SE ¼ Section 29, Hagen Township, with the following conditions:

- 1. Permit shall terminate on December 31, 2026.**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust by applying chloride in front of residences located along the haul route and coordinate maintenance on any/all gravel haul roads with the Clay County Highway Department.**
- 4. Operator shall improve access onto 190th St N and Co. Rd. 34 to meet Clay County Hwy. Department standards; and place appropriate “Trucks Hauling/Entering” signage at entrance when hauling.**
- 5. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.**
- 6. Operations must comply with all provisions of Wetlands Conservation Act.**
- 7. A maximum of 39 acres was approved for mining operations (excavation, screening, crushing, stockpiling, etc.) If additional acres are proposed to be opened in the future a new or amended IUP would be required.**
- 8. May operate March thru December, Monday thru Saturday, from 6 a.m. to 9 p.m. Twenty-four crushing operations may be allowed with prior approval from the Planning Office.**

- 9. Applicant must post \$1000 per acre reclamation bond and reclaim mined out areas as mining activities progress. Areas are to be seeded to native prairie grasses or reclaimed to the landowner's specifications.**
- 10. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
- 11. Operator shall present a mine plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.**

Business Items

Magnusson requested that the March 15 Planning Commission meeting be moved to March 22 because of his absence during the week of March 14.

On motion by Dave Heng, seconded by Andrea Koczur, the March Planning Commission meeting was rescheduled from March 15 to March 22.

On motion by Tom Jensen and seconded by Andrea Koczur, the meeting adjourned at 9:30 p.m.

Tom Jensen, Planning Commission Secretary